

1 KEVIN V. RYAN (CSBN 118321)
United States Attorney

2 MARK L. KROTOSKI (CSBN 138549)
3 Chief, Criminal Division

4 GREGG W. LOWDER (CSBN 107864)
Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055
6 San Francisco, California 94102
Telephone: (415) 436-7044
7 Fax: (415) 436-7234

8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

| | | |
|------------------------------|---|-------------------------------------|
| 12 UNITED STATES OF AMERICA, |) | No. CR 3 06-70413 MEJ |
| |) | |
| 13 Plaintiff, |) | PROPOSED ORDER EXCLUDING |
| |) | TIME FROM AUGUST 18, 2006 |
| 14 v. |) | THROUGH SEPTEMBER 19, 2006 FROM |
| |) | CALCULATIONS UNDER THE SPEEDY |
| 15 KAI BUTLER, |) | TRIAL ACT (18 U.S.C. § 3161) AND |
| |) | UNDER F.R.C.P. 5.1 |
| 16 Defendant. |) | |
| |) | |

17 The parties appeared before this Court on the pending complaint on August 18, 2006.
18 The defendant was personally present. Gregg Lowder, Assistant United States Attorney,
19 appeared for the United States.

20 V. Roy Lefcourt, Esq. informed the Court on August 18, 2006 that he would not
21 represent the defendant. Steven Kalar, Assistant Federal Public Defender, appeared specially for
22 the defendant, pending a determination as to whether his office had a conflict in representing the
23 defendant. He requested the date of September 15, 2006 to make that determination and to set a
24 preliminary hearing.

25 The Court continued the matter to August 29, 2006 for identification of counsel for the
26 defendant, and to September 15, 2006 to set a preliminary hearing and to set a detention hearing.

27 The Court excluded time until September 15, 2006 from time calculations under the
28

Order re Speedy Trial Exclusion of Time
CR 3 06-70413 MEJ

1 Speedy Trial Act and under F.R.C.P. Rule 5.1, at the request of the defendant and his attorney
2 specially-appearing, AFPD Steven Kalar, to permit the attorney time to determine whether a
3 conflict exists and to permit reasonable time to effectively prepare a defense.

4 On August 29, 2006, the defendant appeared in Court and AFPD Steven Kalar accepted
5 general appointment as counsel. At the request of the defendant and AFPD Steven Kalar and
6 based on their representations of the interim unavailability of defense counsel and the need for
7 reasonable time to effectively prepare a defense for the defendant, the Court excluded time from
8 Speedy Trial Act and F.R.C.P. Rule 5.1 time calculations through September 19, 2006 and
9 continued the matter to September 19, 2006 @ 9:30 a.m. to set a preliminary hearing and to set a
10 detention hearing.

11 The Court enters this order continuing the hearing and supplementing its oral orders at
12 the hearing of August 18, 2006 and August 29, 2006 excluding time from calculations under the
13 Speedy Trial Act, 18 U.S.C. § 3161, and from calculations under Federal Rule of Criminal
14 Procedure 5.1, from August 18, 2006 through September 19, 2006. The parties, including the
15 defendant, agree and the Court finds and holds as follows:

16 1. The defendant understands, requests and agrees to the exclusion of time from
17 calculations under the Speedy Trial Act, 18 U.S.C. § 3161 and under Federal Rule of
18 Criminal Procedure Rule 5.1, from August 18, 2006 through September 19, 2006 based
19 upon the need of the defense to analyze the discovery before an indictment is sought by
20 the government; to investigate further the defenses to the case prior to indictment; and
21 for continuity of counsel, as the defense counsel will be out of state and unavailable due
22 to work-related matters during a significant part of this period of time.

23 2. The defense counsel Steve Kalar joins in the request to exclude time from calculations
24 under the Speedy Trial Act and under F.R.C.P. 5.1 for the above reasons, and believes the
25 exclusion of time is necessary for him to effectively prepare a defense and for the need of
26 continuity of counsel due to his unavailability, and further agrees the exclusion of time
27 under the Speedy Trial Act, 18 U.S.C. § 3161 and under F.R.C.P. 5.1 should be from
28 August 18, 2006 through September 19, 2006.

1 Given these circumstances, the Court finds that the ends of justice served by excluding
2 from time calculations the period from August 18, 2006 through September 19, 2006, outweigh
3 the best interests of the public and the defendant in a speedy trial under the Speedy Trial Act, 18
4 U.S.C. § 3161 and, at the defendant's request, finds good cause for the same reasons listed above
5 and stated at the hearing to exclude August 18, 2006 through September 19, 2006 from time
6 calculations under Federal Rule of Criminal Procedure 5.1. Accordingly, and at the request of
7 the defendant personally, the Court (1) sets an appearance date before this Court on September
8 19, 2006, @ 9:30 a.m., and (2) orders and finds that the time from August 18, 2006 through
9 September 19, 2006 is excluded from time calculations under the Speedy Trial Act, 18 U.S.C. §
10 3161 and under Federal Rule of Criminal Procedure 5.1.

11 SO STIPULATED:

12 DATED: 8/30/06

/S/
STEVEN KALAR
Attorney for Defendant

14 DATED: 8/29/06

/S/
GREGG W. LOWDER
Assistant United States Attorney

16 IT IS SO ORDERED.

17 DATED: August 31, 2006


JOSEPH C. SPERO
United States Magistrate Judge